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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,688	04/09/2004	Michael M. Bellick	ARP 5589.2	1356

321 7590 10/07/2004

SENNIGER POWERS LEAVITT AND ROEDEL
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16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

MAYO, TARA L

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,688

Applicant(s)

BELICK ET AL.

Examiner

Tara L. Mayo

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-11, 14-16 and 18-25 is/are rejected.
- 7) ☒ Claim(s) 8, 12, 13 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040707.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 14 is objected to because of the following informalities: recitation of a trademark. In claim 14 on line 3, delete "LYCRA" and insert the generic terminology therefor. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one-year prior to the date of application for patent in the United States.

3. Claims 1 through 7, 10, 11, 15, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Tatsuno (U.S. Patent No. 4,888,828).

Tatsuno '828, as seen in Figures 1 through 6, shows a sleeping bag (3) comprising an elongate shell defining an inner volume (1) sized and shaped to receive a user therein, the elongate shell having a head end, a foot end, opposite sides extending longitudinally of the shell, an inner layer (4), an outer layer (5) comprising at least one stretchable panel of resilient sheet material, and insulating material (6) between the inner layer and the outer layer, the at least one stretchable panel being located in areas of the shell generally corresponding to shoulders, elbows and knees of a user.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsuno (U.S. Patent No. 4,888,828).

Tatsuno '828 teaches all of the features of the claimed invention with the exception(s) of the at least on stretchable panel comprising a stretch fabric. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device shown by Tatsuno '828 such that it would further include a stretchable fabric to promote retention of shape of the sleeping bag.

7. Claims 9 and 19 through 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsuno (U.S. Patent No. 4,888,828) in view of Kramer (U.S. Patent No. 5,473,779).

Tatsuno '828 teaches all of the features of the claimed invention with the exception(s) of:

with regard to claims 9 and 19,

the outer layer further comprising non-stretchable material bordering the at least one stretchable panel.

Kramer '779, as seen in Figure 2, shows a sleeping bag (10) comprising an outer layer of stretchable zones and non-stretchable zones to provide freedom of movement in desired areas of the bag.

With regard to claims 9 and 19, it would have been obvious to one having ordinary skill in the art of sleeping bags at the time the invention was made to modify the device shown by Tatsuno '828 such that it would include non-stretchable zones to provide for freedom of movement as desired.

Allowable Subject Matter

8. Claims 8, 12, 13 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3671

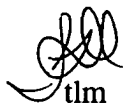
9. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

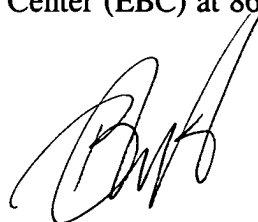
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



tlm

01 October 2004



Thomas B. Will
Supervisory Patent Examiner
Group 3600